THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

-

WRIT PETITION NO : 13871 of 1999

-

DATED: 05-08-2005

M.Uttam Kumar.

..... PETITIONER

AND

The Commissioner Municipal Corporation of Kurnool,
Kurnool Distrtict.

.....RESPONDENT

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

ORDER:

-

-

This Writ Petition is filed under Article 226 of the Constitution of India seeking a Mandamus declaring the action of the respondent, in insisting the petitioner to pay developmental charges and other penal amounts contrary to the guidelines contained in G.O.Ms.No.419, dated 30-07-1998, as arbitrary, illegal and unconstitutional.

2. It is the case of the petitioner that after obtaining permission from the then Kurnool Municipality prior to 1970 his grand father constructed a building for commercial purpose. After completion of the construction the municipality had assessed the building and allotted Dr.No.40/30 and the petitioner has been using the said building for commercial purpose. Subsequently, he constructed another room in June, 1998. Pursuant to the issuance of G.O.Ms.No.419, he submitted an application for regularization of the unauthorized structure. Initially the authorities have estimated the penal charges as Rs.75/- for sq.ft. Immediately, he made a representation to the respondent bringing its notice that as per G.O.Ms.No.419, he has to pay Rs.45/- per sq.ft but not Rs.75/- per sq.ft. Whileso, the respondent issued a notice, dated 21-06-1999, informing the petitioner to pay Rs.53,686/-. On receipt of the said notice,

the petitioner approached the respondent, but the Officials of the respondent expressed their helplessness in that regard and stated that they have no power to review the same. Aggrieved thereby, the present Writ Petition has been preferred.

3. Respondent filed his counter, denying most of the allegations made in the Writ Petition.

4. Heard both sides.

5. I have perused the entire material on record.

6. After going through the impugned notice, dated
21-06-1999, it appears no details were given by the respondent as to how he had arrived at the alleged amount. Considering the facts and circumstances, I deem it appropriate to set aside the impugned notice, dated 21-06-1999, and direct the respondent to reconsider the matter after giving opportunity to the petitioner along with the application submitted by him, in accordance with law.

7. Accordingly, the Writ Petition is disposed of. No order as to costs.

(DHARMA RAO ELIPE,J)

5th August, 2005.

tsy